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*Congdon et al. and Tennessee Mining Company vs. Goodman et al.*

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sary to give it any further examination. Suffice it to say, that in our opinion the instructions requested should have been given, and those given should have been withheld. The respective judgments of the Circuit Court are accordingly reversed and the causes remanded, with instructions in each case to issue a new venire.

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CONGDON, ET AL., AND TENNESSEE MINING COMPANY *vs.*  
GOODMAN AND BLEDSOE.

A controversy in which no right is claimed under the Constitution or laws of the United States, but which turns entirely upon the validity or interpretation of State Laws, is exclusively within the jurisdiction of the State Court, and this Court has no appellate power over its judgment.

Error to the Supreme Court of the State of Tennessee.

The defendants in error in this cause were the Common School Commissioners of the Eighth Civil District of Polk County, Tennessee, who in that character filed their bill on the 13th of February, 1856, in the Chancery Court at Benton, to impeach and set aside a lease for ninety-nine years, made by their predecessors, of the Common School Section of land in that district, and a sale made of the same land under an order of the Circuit Court of that County. The validity of the sale and lease was impeached and maintained upon the authority of State laws. The Chancery Court dismissed the bill. On appeal to the Supreme Court of Tennessee, the decree was reversed and the case remanded for final proceedings. Defendants below thereupon sued out their writ of error in the Supreme Court of the United States.

*Mr. Meigs*, of Tennessee, for Plaintiff in Error.

No counsel appeared for Defendants in Error.

Mr. Chief Justice TANEY. This writ of error is directed to

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*Russell vs. Ely et al.*

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the Supreme Court of Tennessee, and is brought to revise a decree of that Court which declared null and void a certain sale and lease of school lands in Polk County, under which sale and lease the plaintiffs in error claimed title to these lands.

The statement of the facts in the transcript will show that the validity of this sale and lease depended altogether upon the laws of the State, and the proceedings of the State authorities. The plaintiffs in error do not claim under any laws of Congress, or any authority exercised by the United States. On the contrary, they deny the authority of Congress to pass the Act of 1843, (which is the only Act of Congress referred to,) and claim that a lease for ninety-nine years, made by the School Commissioners under a law of the State, was valid, and passed the title for the term, although in direct opposition to the provisions of the Act of Congress. Such a controversy, where no right is claimed under the Constitution or laws of the United States, is exclusively within the jurisdiction of the State Court, and this Court has no appellate power over its judgment. This writ must therefore be dismissed for want of jurisdiction.

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RUSSELL vs. ELY ET AL.

1. In Wisconsin the fee of mortgaged premises, rests in the mortgagee or assignee only after foreclosure and sale: not upon the mere default of the mortgagor.
2. A deed in fee, executed by the mortgagor, subsequent to the mortgage-deed, but prior to the foreclosure, passes the legal title.
3. But if the mortgagee is in lawful possession of the mortgaged premises, after condition broken, he will not be turned out until the debt is paid.
4. Possession obtained by the mortgagee through an arrangement with the tenant of the mortgagor whose lease has expired, without the consent of the mortgagor, is not lawful possession.
5. It is not necessarily error for a Court to instruct the Jury,